

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO

ZINGANYTHING, LLC, ET AL.	)	CASE NO. 5:16CV1917
	)	
	)	MAGISTRATE JUDGE
Plaintiffs	)	GEORGE J. LIMBERT
	)	
v.	)	<u>CASE MANAGEMENT CONFERENCE</u>
	)	<u>SCHEDULING ORDER</u>
COOL GEAR INTERNATIONAL, LLC,	)	
	)	
Defendant	)	

This case is subject to the provisions of Section 16 of the Local Rules of the Northern District of Ohio entitled Differentiated Case Management (DCM). Counsel are expected to familiarize themselves with the Local Rules as well as with the Federal Rules of Civil Procedure. The Court shall evaluate this case in accordance with Section 16 and assign it to one of the case management tracks described in L.R. 16.2(a)(2). Each of the tracks (expedited, standard, complex, mass tort, and administrative) has its own set of guidelines and timelines governing discovery practice, motion practice, and for trial. Discovery shall be guided by Local Rules and Federal Rules of Civil Procedure. Motion practice shall be guided by L.R. 7.1, et seq. The Case Management Conference is of vital importance to the Court, counsel, and the parties. **The Court requests that counsel read this Order with care and comply exactly with its directives.**

**SCHEDULING OF CASE MANAGEMENT CONFERENCE**

All counsel and/or parties will take notice that the above-entitled action has been set for a Case Management Conference (“CMC”) on Monday, January 30, 2017, at 10:00 a.m., **before Magistrate Judge George J. Limbert, Room 229, Federal Building & U.S. Courthouse, 125 Market Street, Youngstown, Ohio.**

Local Rule 16.3(b) requires the attendance of both parties and lead counsel. “Parties” means either the named individuals, or, in the case of a corporation or similar legal entity, that person who is most familiar with the actual facts of the case. “Party” does not mean in-house counsel or someone who merely has “settlement authority.” If the presence of a party or lead counsel will constitute an undue hardship, a **written motion** to excuse the presence of such person must be filed at least three (3) days prior to the CMC. Motions by attorneys to attend by telephone will be granted sparingly, and for emergency purposes only. Attorneys must have full settlement authority or immediate accessibility to someone with full settlement authority. Pro hac vice motions must also be filed at least three (3) days prior to the CMC.

#### **ELECTRONIC FILING**

Pursuant to L.R. 5.1(b), and subject to further discussion at the Case Management Conference, the Court recommends that the parties file all documents electronically via the Internet, except for pro-se parties, who must still file on paper in the traditional manner.

Counsel shall register for a CM/ECF account in order to ensure that they receive electronic notice from the Court and the other party(ies) in the case. In the event that counsel cannot comply with ECF requirements, they may file pleadings manually prior to the Case Management Conference, where they will be asked to show cause why they are unable to file documents electronically.

#### **TRACK RECOMMENDATION**

Pursuant to Local Rule 16.3(a) and subject to further discussion at the CMC, the Court recommends the following track:

\_\_\_\_\_ Expedited

\_\_\_\_\_ Standard

\_\_\_\_\_ Administrative

\_\_\_\_\_ Complex

\_\_\_\_\_ Mass Tort

  X   Recommendation reserved for CMC.

### **APPLICATION OF FED. R. CIV. P. 26(a)**

Rule 26(a) of the Federal Rules of Civil Procedure mandates a series of required disclosures by counsel in lieu of discovery requests unless otherwise stipulated or directed by order of the Court or by local rule.

### **PREPARATION FOR CMC BY COUNSEL**

The general agenda for the CMC is set by Local Rule 16.3(b)(2). Counsel for the plaintiff shall arrange with opposing counsel for the meeting of the parties as required by Fed. R. Civ. P. 26(f) and L.R.16.3(b)(3). Pursuant to Local Rule 16.3(b)(3), a report of this planning meeting shall be jointly signed and filed not less than seven (7) days before the CMC. The report shall be in a form substantially similar to Attachment 1. Failure to timely file the Plan may result in sanctions.

As part of their pre-CMC planning conference, counsel must determine whether there will be discovery of electronically-stored information (ESI) [E-discovery]. If counsel anticipate any E-discovery, they must decide on a method for conducting such discovery, or they must agree to abide by the default standard set forth in Appendix K to the Local Civil Rules (copy attached and marked as "Attachment 2").

### **STATEMENT OF FACTS AND LEGAL ISSUES**

Along with the Report of the Parties' Planning Meeting, counsel shall submit a brief statement of the facts to inform the Court of the claims and defenses of the case. This statement shall identify as specifically as possible the disputed facts. This statement is non binding on the parties and will not be construed as a waiver of any claims or defenses that may later develop.

**FORMAL DISCOVERY STAYED UNTIL CMC**

The Court orders counsel and/or the parties that no preliminary formal discovery may be conducted prior to the CMC except such discovery as is necessary and appropriate to support or defend against any challenge to jurisdiction or claim for emergency, temporary, or preliminary relief. This limitation in no way affects any disclosure required by Fed. R. Civ. 26(a)(1) or by this order.

**FILING OF DISCOVERY MATERIALS**

Unless otherwise ordered by the Court, initial disclosures, discovery depositions, interrogatories, requests for documents, requests for admissions, and answers and responses thereto shall not be filed with the Clerk's Office, except that discovery materials may be filed as evidence in support of a motion or for use at trial.

**RESOLUTION PRIOR TO CMC**

In the event that this case is resolved prior to the CMC, counsel should submit a jointly-signed stipulation of settlement or dismissal, or otherwise notify the Court that the same is forthcoming.

**IT IS SO ORDERED.**

Dated: November 10, 2016

/s/George J. Limbert  
GEORGE J. LIMBERT  
UNITED STATES MAGISTRATE JUDGE